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PATENT DEPARTMENT  
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In re Application of  
Bocionek  
Application No. 09/885,617  
Filed: June 20, 2001  
Attorney Docket No. P01,0208  
For: MEDICAL SYSTEM ARCHITECTURE  
WITH AN APPARATUS FOR THE  
ACQUISITION AND PLAYBACK OF CURRENT  
PHOTOGRAPHIC IMAGES OR IMAGE  
SEQUENCES

**COPY MAILED**

MAR 11 2005

**OFFICE OF PETITIONS**

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 2005 (certificate of mailing date January 24, 2005), to revive the above-identified application. In addition, the petition will be treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed April 27, 2004 that set a three (3) month extendable period for response. The Office contended that no reply was timely received. Therefore, the Office asserted that the application became abandoned on July 28, 2004. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Petitioner asserts that a proper response and two month extension of time were in fact timely deposited in USPS first class mail on September 27, 2004 and received in the Office on October 1, 2004. In support, petitioner submitted a copy of his return receipt postcard dated stamped October 1, 2004 by the Office and a copy of the "Amendment A".

The return postcard constitutes *prima facie* evidence that Amendment A was filed on October 1, 2004 (certificate of mailing date September 27, 2004). MPEP 503.

Unfortunately, only the postcard receipt cited the correct application number. Petitioner designated an incorrect application number on "Amendment A" and the transmittal letter for all the correspondence filed on October 1, 2004 (certificate of mailing date September 27, 2004). This resulted in the two month extension of time and "Amendment A" being placed in an incorrect application file.

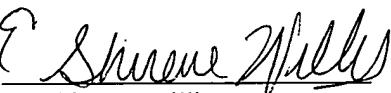
Even though petitioner cited the wrong application number, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the October 1, 2004 (certificate of mailing date September 27, 2004) correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the transmittal with Office database records would have revealed the typographical error.

Therefore, the response to the April 27, 2004 non-final Office action was timely filed. Accordingly, the petition under 37 CFR 1.181 is granted, the Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn. The original papers filed on October 1, 2004 (certificate of mailing date September 27, 2004) will be transferred to application no. 09/885,617.

Regarding fees, as the petition to revive under 37 CFR 1.137(b) is dismissed as moot, the \$1,500.00 petition fee submitted with the instant petition will be credited to deposit account no. 50-1519. The two month extension of time fee submitted on October 1, 2004 (certificate of mailing date September 27, 2004) will be transferred to this application.

The application file will be forwarded to Technology Center GAU 2621 for processing of the October 1, 2004 (certificate of mailing date September 27, 2004) amendment.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

  
E. Shirene Willis  
Senior Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy